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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,536	10/31/2003	Percy A. Dickens	2826502.000001	9964
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W. EDWARD RAMAGE COMMERCE CENTER SUITE 1000 211 COMMERCE ST NASHVILLE, TN 37201			EXAMINER CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,536

Applicant(s)

DICKENS, PERCY A.

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-7,9-11,15,16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,9-11,15,16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment filed January 9, 2006, and the arguments presented therewith have been carefully considered and are persuasive. Therefore, the rejections have been withdrawn. However, the arguments are moot in view of a new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "two rectangular pieces affixed to each other" (claim 5) and "one or more cross-bars or pieces" (claim 5)". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1,5-7,9-11,15,16, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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There is no antecedent basis for "the loops" (claim 1, line 15). Applicant does not clearly and particularly point out what "the loops" are. Note that applicant recited "a series of three or more closed loops" (claim 1, line 5) and also claimed that "said loops are flexible" in the depending claim 19, in the amendment filed October 12, 2004

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1,5-7,9,10;15,16, and 18, as best understood, are rejected under 35

U.S.C. 102(e) as being anticipated by Herndon (6,925,791).

Herndon (6,925,791) discloses a device for retrieving objects comprising an elongated handle (14), a rectangular base mount (26) (Fig. 2) having two opposing sides, affixed to one end of the handle, and a substantially box shaped basket (see Fig. 2). The basket comprises a top formed by the base mount (26), two opposing ends formed by two end pieces (58,60) hingedly attached to the base mount, a bottom face, and two opposing sides formed by a series of at least three generally U-shaped wires (76,76,76), each wire having a first end, a second end, a transverse base section (84), and two parallel side sections (80). Note that the bottom sections (84) of the wires are spaced relatively even apart in parallel (Col. 4, lines 3-15) and the wires are flexible enough to allow objects to be squeezed between the bottom sections of the wires into the basket.

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Re claim 5, the base mount comprises two rectangular pieces (48,50) affixed to each other in parallel by one cross bar or piece (26).

Re claims 6 and 7, the wires (76,76) are substantially permanently affixed to the bracket (82) (Fig. 2), but they are also removably mounted to the base mount by a screw (52).

Re claims 9 and 10, the horizontal bottom section (84) and the vertical section (80) or side section of each wire is approximately 90 degree (see Fig. 2). Herndon (6,925,791) states the side section (80) as a vertical leg, and also describes the bottom section (84) as a horizontally extending bottom stretch (Col. 4, lines 3-15). Note that the bottom face of the basket is substantially flat because the bottom sections of the wires are substantially normal to the side (vertical) sections of the wires.

Re claims 15 and 16, figure 2 shows an end piece (58) further comprising sidewalls (64,66), which can be considered as two closing devices, being attached to the bent plate. Note that one of the five wires, located at an end, also can be considered as a single bent or curved wire or rod.

Re claim 18, the wires (76) are spaced apart in an array at a distance at least the diameter of a standard golf ball (see Col. 1, lines 9-13).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 11, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Herndon (6,925,791) in view of either Hoagland et al. (3,926,465) or Goehring (2,972,851).

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Herndon (6,925,791), as presented in section 6 above, does not show that the base or bottom section of one of the wire is curved or bent inwardly. However, Hoagland et al. (3,926,465) teaches a wire or rod (54) (see Figs. 3 and 4) having an upward projection (56) which is curved or bent. Accordingly, it would have been obvious to those skilled in the art to modify one of the wires of Herndon (6,925,791) to be curved or bent inwardly or upwardly as taught by Hoagland et al. (3,926,465) to substantially restrain the retrieved balls within the basket. Moreover, Goehring (2,972,851) also teaches the bottom sections of wires (38,38) enclosing a ball wherein the bottom surface of the basket is concave or angled inwardly or upwardly as shown in figure 3. Accordingly, it would have been obvious to those skilled in the art to modify at least one wire or more wires of Herndon (6,925,791) to be curved or bent inwardly or upwardly as taught by Goehring (2,972,851) to trap the balls between the wires so that a user can easily retrieve the balls within the basket.

Response to Arguments

9. Applicant's amendment filed January 9, 2006, and the arguments presented therewith have been carefully considered and are persuasive. Therefore, the rejections have been withdrawn. However, the arguments are moot in view of a new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Germany patent (DE 476,242) shows a handle, a substantially rectangular shaped mount, two end pieces, and a plurality of wires to retrieve balls.

Applicant's amendment (the addition of new structural limitations in claim 1 in combination with other structural limitations) necessitated the new ground(s) of rejection

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presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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